



POLICE DEPARTMENT

July 10, 2009

MEMORANDUM FOR: Police Commissioner

Re: Detective Edward Caddle  
Tax Registry No. 880711  
Queens Homicide Task Force  
Disciplinary Case No. 84607/08  
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The above-named member of the Department appeared before the Court on March 23, 2009, charged with the following:

1. Said Detective Edward Caddle, assigned to the Queens Homicide Task Force, on or about December 1, 1998 and March 28, 2008, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: after relocating to [REDACTED] NY, said Officer failed to register his motor vehicle at his new address, but instead continued to register the vehicle at his prior address located in [REDACTED], New York.<sup>1</sup>

PG 203-10 – Page 1, Paragraph 5 – PUBLIC CONDUCT—PROHIBITED  
CONDUCT—GENERAL REGULATIONS

The Department was represented by Pamela Naples, Esq., Department Advocate's Office, and the Respondent was represented by Philip Karasyk, Esq.

The Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

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<sup>1</sup> The charge was amended orally by the Department at trial, without objection by the Respondent, to change "register" to "register and insure."

DECISION

The Respondent is found Not Guilty.

SUMMARY OF EVIDENCE PRESENTEDThe Department's Case

The Department called Sergeant David Decker.

Sergeant David Decker

Decker is a ten-and-a-half year member of the Department assigned as an investigator for the Chief of Detectives Investigations Unit (CDIU). He investigates allegations of misconduct by members of the Department assigned to the Detective Bureau. Generally speaking, Decker said that his investigations commence with the receipt of an allegation, which usually names the officer or officers involved. Thereafter, he conducts a Personnel Profile (PEPR) and Central Personnel Index (CPI) check, both of which provide an assortment of information about a member.

In March 2008, Decker testified that he received information from the Internal Affairs Bureau (IAB) Vehicle Identification Unit concerning the Respondent. Specifically, Decker said that the Respondent had submitted an application for a restricted Department parking permit (see Respondent's Exhibit [RX] A, Permit Application). It was discovered that the Respondent's home address, as listed in the PEPR report (see RX B, PEPR excerpt), did not match the address listed on his vehicle registration. As a result, Decker was tasked with conducting an investigation. He noted that anyone who applied for the restricted parking permit would have his address checked.

The PEPR check reflected a change of address from [REDACTED] ([REDACTED] County) to

[REDACTED] ([REDACTED] County) on September 7, 2001. A change back to [REDACTED] is reflected

on February 1, 2008. Decker testified that the Respondent applied for the permit on February 5, 2008.

In conducting his investigation, Decker testified that he found two addresses for the Respondent, one in [REDACTED] and another on [REDACTED]. He specified that the Respondent's car was registered on [REDACTED] and his house address on the PEPR report was an address in [REDACTED]. Decker said he then contacted Farmers Insurance, the Respondent's insurance carrier, and asked if they would be interested in prosecuting the Respondent for fraud. They were unwilling to do so. Thereafter, a conferral occurred with the District Attorney's Office<sup>2</sup> to determine if they wished to prosecute the Respondent. They declined. Decker said that the investigation continued anyway "because this goes towards [the Respondent's] credibility. If he is pursuing fraudulent documents, that needs to be addressed."

An Official Department Interview was conducted of the Respondent (see Court Exhibit [CX] 1, tape; CX 1a, transcript). Decker said this interview revealed that the Respondent was "separated" from his wife for about 10 years. In that time period, he resided in Queens. The Respondent eventually reconciled with his wife and returned home but never changed his address with his insurance carrier. In response to the Court's questioning, Decker said that he believed that the Respondent separated from his wife, moved out, and then divorced.

On cross examination, Decker agreed that the following exchanges occurred during the Official Department Interview:

Sergeant McCullough: So, you really, you really, you were living in [REDACTED] and [REDACTED] and you were going back and forth on a regular basis during this entire time?

The Respondent: Correct.

Sergeant Senayo: Okay. When did you move back to the [REDACTED] address exactly?

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<sup>2</sup> Decker was unsure whether it was the [REDACTED] or [REDACTED] County DA's Office with whom he conferred.

The Respondent: I moved back and forth on and off with my wife and kids for the last five or six years.<sup>3</sup>

Through his investigation, Decker determined that the house in [REDACTED] was owned by the Respondent. He owned this house from 1992 to the present. While the investigation never sought to determine where the Respondent's children attended school, it was discovered that the Respondent voted in [REDACTED]

In April 2008, Decker conferred with [REDACTED] of Farmers Insurance. He informed [REDACTED] of his investigation and his findings that the Respondent was utilizing two different addresses. [REDACTED] told Decker that if it was "correct and significant" to the company, a rate adjustment would be made. He was not sure if such an adjustment ever occurred, but noted that [REDACTED] said that the Respondent "owned the home." Decker then testified that [REDACTED] did not express to him that would be a rate adjustment, but simply that she would "look into" the matter.

Decker reiterated he contacted the District Attorney's Office and spoke with an Assistant District Attorney named Pittman. Decker shared the specifics of his investigation with Pittman to see if she was interested in prosecuting any Penal Law violations relating to insurance fraud. Ultimately, no Penal Law or Department of Motor Vehicles violations were brought against the Respondent.

During redirect examination, Decker testified that the PEPR report does not reflect when the address change was actually reported by the Respondent, as opposed to when it was input into the PEPR system. During Decker's investigation, when he requested the Respondent's PEPR report, the change of address to [REDACTED] was not listed.

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<sup>3</sup> The interview excerpts as quoted in the record are paraphrases of the interview itself.

On recross-examination, Decker was asked if he learned anything refuting the Respondent's claim at his Official Department Interview that he traveled back and forth between the two addresses. Decker replied that he had, specifically, that the Respondent submitted the September 2001 change to the address in [REDACTED] as his official residence. Decker admitted that his sole source of information was the change of address form that the Respondent submitted, and no other documentation showed that he was living at two places.

Decker agreed that the change of address form would cause a Department member to receive Department mail at the address specified on the form.

#### The Respondent's Case

The Respondent testified in his own behalf.

#### Detective Edward Caddle

The Respondent is an almost-26-year member of the Department. He is a first grade detective assigned to Queens Homicide where he has worked for over two years.

The Respondent testified that he is presently married to [REDACTED] ("[REDACTED]") and has been so for just over two years. The Respondent first married [REDACTED] in January 1993 in a civil ceremony before a judge. At [REDACTED]'s request, they also had a church ceremony that March.

Before this marriage, the Respondent bought a home on [REDACTED] in [REDACTED]. He was the sole owner and bought the property in his name alone. The Respondent affirmed that he has continuously owned this residence from 1992 to the present and offered the deed as evidence, RX C.

After marrying [REDACTED] for the first time in 1993, the Respondent had a daughter with her that same year. The Respondent, his wife and his daughter lived at the [REDACTED] residence

together until the Respondent and [REDACTED] separated sometime in 1995 or 1996. The Respondent and [REDACTED] divorced in 1997. He testified that as part of the Judgment of Divorce (see RX D, excerpt of judgment), he maintained ownership of the [REDACTED] residence as part of the settlement (specifically, [REDACTED] waived all rights to the residence in consideration of a distributive award of \$15,000). [REDACTED] maintained custody of his daughter and they did not live with him at his home in [REDACTED]. However, he said they had a "fairly reasonable relationship" and she would come over to the house in the course of visitation or if he needed her help with something.

After the divorce, the Respondent continued to live at the [REDACTED] residence with his nephew [REDACTED] until about 2000 or 2001. In 2000 or 2001, the Respondent began dating a woman who lived in [REDACTED] at the address listed on the PEPR sheet. The woman was also a detective. The building superintendent, with whom the Respondent was friendly, told him of an available one-bedroom apartment there for \$690 a month. The Respondent thought this was a "steal" and took the apartment.

The Respondent testified that he submitted a change-of-address form with the Department. He explained that he did so because [REDACTED] "had feelings towards me again, she wanted to get back." He was "a little leery because during the divorce settlement I thought I did pretty good without losing my pension, the house, anything like that." The Respondent was wary of [REDACTED] "going through my mail and finding stuff on my job. I didn't want her to know my financial situation."

The Respondent testified that he did not spend his time off in [REDACTED] because his visitation was scheduled during this time. He would pick his daughter up from school or go to her sporting events. She would sleep at the [REDACTED] home, and then he would return her to her mother's house. The Respondent clarified that he would spend the evening with his daughter in [REDACTED]. While her mother lived in [REDACTED] County, she resided at a different location.

Despite renting the apartment in [REDACTED], the Respondent claimed that the frequency of his presence in [REDACTED] did not really change. He conceded that the [REDACTED] apartment "was a little more convenient here and there for like my turnarounds and stuff like that." Nonetheless, the Respondent said, he spent a lot of time with his daughter in [REDACTED]

In 2002, the Respondent and [REDACTED] began "getting more serious, started dating a little more. Seemed like everything was better and we probably made a mistake." He stopped seeing the woman from [REDACTED], and in 2003, he and [REDACTED] had another child. She moved back into the [REDACTED] residence with him just before this child was born. Prior to 2004, the Respondent noted that he was spending about 70 percent of his time in [REDACTED] as opposed to his apartment in [REDACTED]

In November 2004, the Respondent and [REDACTED] remarried. When asked whether the frequency with which he lived in [REDACTED] changed, he answered, "No, I stayed – might have been like 85 percent" in [REDACTED]. At that point, he said that he rarely used the apartment in [REDACTED] and his sister [REDACTED] moved in. She lived in the apartment continuously from 2003 until December of 2007, when the Respondent gave the [REDACTED] apartment up.

From 2001 to December of 2007, the Respondent said that he attended church services at the Church of the Good Shepherd in [REDACTED]. His automobiles were registered in [REDACTED] he was an assistant coach for his daughter's soccer team in Lake Grove (also in [REDACTED] County), and he also paid real estate taxes and voted in [REDACTED]. The Respondent's Verizon Wireless cellular phone bills were sent to his [REDACTED] address (see RX E, selection of bills from 2004 to 2006). Additionally, two mortgage statements, dated 2006 and 2007 and billable to the Respondent, for the [REDACTED] house were offered in evidence as RX F.

The Respondent conceded that his apartment in [REDACTED] was equipped with gas service (see RX G, two Keyspan bills from 2005). The bills for this service were mailed to his [REDACTED]

address. The Respondent testified that he was sure he had a photograph of "my daughter or somebody" in the [REDACTED] apartment. He left all of his "PD stuff . . ., you know, all my sporting equipment was in [REDACTED], my golf clubs, everything. You know, softball mitts, whatever." He did bring toiletries and towels to the apartment. He also spent time at the apartment when his sister lived there. He would sleep on the couch while his sister slept in the bed, and asserted that the apartment was "basically hers."

When asked "in your mind, where was your home? Where was your domicile?," the Respondent answered that it was [REDACTED]. He "basically rebuilt" that house. He kept a boat in [REDACTED], about ten minutes from [REDACTED], and used it "as much as possible."

The Respondent affirmed that he has a credit card issued by Citibank (see RX I, copy of April 2005 credit card statement). It was mailed to his [REDACTED] address. Three of the charges are for gas stations in [REDACTED] and [REDACTED]. One charge is for a restaurant in [REDACTED] ([REDACTED]). An April 2004 letter from HSBC Bank (RX J), which provided a new telephone access code, was addressed to [REDACTED].

Two 2006 home-equity loan statements from National City were admitted as RX K. The Respondent said that he took this loan in order to perform home improvement work at the [REDACTED] residence. He installed a new roof, siding, and a deck and also refinished the kitchen and a bathroom.

The Respondent never received notice from Farmers Insurance of any rate increase. Similarly, he never received any communication from the District Attorney's Office concerning criminal charges for insurance fraud.

On cross-examination, the Respondent said that he first signed the lease for the [REDACTED] apartment in Queens in 2000 or 2001. The Respondent said he probably signed three leases for the [REDACTED] apartment, whether they were one- or two-year leases. The



apartment was furnished with extra furniture that the Respondent had around his [REDACTED] house, and included a television, a bed and some kitchen utensils.

Aside from Keyspan gas service, the Respondent testified that the only other utility at his apartment was electric service. He believed, however, that he initially had landline telephone service. On later questioning by the Court, the Respondent admitted that the apartment was equipped with cable television service.

The Respondent saw his girlfriend from [REDACTED] at least once a week at the apartment. On occasion, he brought his daughter along to play with the girlfriend's children.

The Respondent denied that he commuted from the [REDACTED] apartment to his command. He stated that the majority of his commute was from [REDACTED]. He testified that he worked a "4 and 2" chart, which comprised working two night tours, then two day tours, then two days off. On his "turnarounds," i.e., when he left work late at night and had to come back early in the morning, he would stay at the apartment.

The Respondent asserted that the only mail that he received in [REDACTED] was Department-related materials such as pension, annuity and deferred compensation statements, and the Spring 3100 magazine.

The Respondent said he was in a relationship with his ex-girlfriend for about a year-and-a-half, from the end of 1999 to the beginning of 2002. The relationship ceased, the woman retired from the Department and moved to Puerto Rico and the Respondent maintained his apartment in [REDACTED].

### FINDINGS AND ANALYSIS

This case arose out of the Respondent's application for a restricted parking permit. The Respondent is charged, in essence, with purchasing automotive insurance based on a location

that was not his residence. The specification alleges that after “relocating” to ██████ County, the Respondent continued to register his personal motor vehicle “at his prior address” in ██████ County. As the Respondent’s attorney put it on summation, “the spirit of the charge is that he was registering his car in ██████ to obtain a less expensive insurance rate had he registered it in ██████.”

As proof the Department presented the following: the Respondent’s vehicle was registered in ██████ County, but his address on file with the Department (the PEPR report) was in ██████ County. The Department also demonstrated that the Respondent changed his address back to ██████ County on February 1, 2008, and applied for the permit four days later, raising the inference that he was tailoring to make the addresses “match.” The Respondent maintained that he was domiciled in ██████, ██████ County, and simply rented an apartment in ██████, ██████ County, after he began dating a woman who lived in the same building. This apartment was also closer to the Respondent’s command.

In essence, the Department was required to show that the Respondent changed his domicile from his house in ██████, ██████ County, to ██████, ██████ County. Although this case is not one charging failure to reside in one of the counties listed in Patrol Guide § 203-18 (6), it is instructive to note that for purposes of the residency requirements of Public Officers Law §§ 3 and 30, “residency” is the equivalent of “domicile,” see Matter of Hosley v. Curry, 85 N.Y.2d 447, 451 (1995). Domicile means bodily presence with the intent to make the location a fixed and permanent home, Longwood Cent. School Dist. v. Springs Union Free School Dist., 1 N.Y.3d 385, 388 (2004). There is nothing per se impermissible about a public official possessing two pieces of real estate, see People v. Daniel Y., 225 A.D.2d 870 (3d Dept. 1996). But in order to effect a change in *domicile*, there must be a change in “residence in fact” and an “absolute and fixed intention” to abandon the old location and make the new one the

permanent and fixed home, Hosley, 85 N.Y.2d at 451. Because the Respondent's domicile is at issue here, reference to the Department's residency rules will be useful.

Operations Order 89 (Aug. 11, 1986) lists ten criteria that can be used to determine the domicile of a uniformed member. These are: (i) the time the member spends at the claimed residence; (ii) the time spent at the claimed residence by the member's family; (iii) where the member and his family vote; (iv) where the member's children attend school; (v) where the member and his family attend community events; (vi) the number and nature of the member's possessions maintained at either location; (vii) the member's payment of property and utility taxes; (viii) the address listed on the member's various records and documents, including bank records, driver license, motor vehicle registration, insurance policies, etc.; (ix) the member's telephone listing; and (x) the nature, design and size of the structure that the member claims as his domicile. Actions speak louder than paper in this regard; mere documentation carries less weight than where the member and family spend their time. Furthermore, "in most cases," the amount of time spent by the member at a location "is appropriately a strong indicator, if not the determinative factor in determining guilt," *Disciplinary Case No. 80751/05*, Police Commissioner's Memorandum (July 6, 2006).

The Respondent testified credibly and without contradiction that he spent most of his time at the [REDACTED] location. Although he was divorced from his wife, he maintained ownership of the home and lived there; his ex-wife and their daughter lived elsewhere. The Respondent's visitation schedule with his daughter revolved around [REDACTED] he would pick her up from school there, they would go to her sporting activities there, and they would sleep at the Holbrook house.

The Respondent testified that he voted and went to church in [REDACTED] A credit card statement from April 2005 (RX I) showed the Respondent spending a lot of time in [REDACTED]

County, as he bought gas three times there in one month. He owned a boat, which he kept in [REDACTED], and was paying marina fees and services (RX H) to maintain it. He testified that he took a home-equity loan (see RX K, loan statements) to make improvements on the [REDACTED] house. Important mail, like a bank telephone access code (RX J), was sent to [REDACTED]. Even mail for utility services for the [REDACTED] apartment was sent to the Respondent's [REDACTED] address (see RX G, Keyspan bill). The Respondent testified that the possessions that mattered to him, his "PD stuff" and sports equipment, were all kept in [REDACTED].

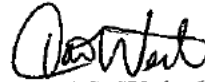
In contrast, the Department demonstrated essentially that the Respondent kept an additional apartment in [REDACTED], [REDACTED]. While he dated a woman who lived in that same building, and changed his address on file with the Department to [REDACTED] there was no evidence that the Respondent intended to move there permanently. In fact, the evidence showed the opposite, that he wished to remain domiciled in [REDACTED].

The Respondent testified that he changed his address to [REDACTED] because he wanted his Department-related mail to be sent there, and not [REDACTED] where his ex-wife might see his financial and pension information. He kept basic amenities in the [REDACTED] home, like toiletries, linens, and a bed and sofa, but not much else. The fact that he renewed the lease on the apartment does not prove that he was domiciled there because a mere change of residence, even for an extended period of time, does not establish a new domicile, see Hosley, 85 N.Y.2d at 451. Furthermore, the fact that the Respondent changed his address on file with the Department back to [REDACTED] around the same time that he applied for the parking permit might show an attempt to eliminate a discrepancy, but it does not show that his domicile was ever in [REDACTED].

In summary, the Department failed to prove by a preponderance of the credible evidence that the Respondent was domiciled in [REDACTED] an essential part of the specification charging that he failed to register and insure his vehicle there. Any evidence of

intent in the Respondent's 2001 change of address to that location was far outweighed by evidence that he spent the majority of his time, money and energy in and around [REDACTED] County. Accordingly, the Respondent is found Not Guilty.

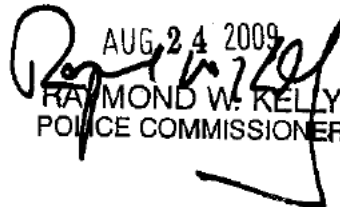
Respectfully submitted,



David S. Weisel

Assistant Deputy Commissioner—Trials

**APPROVED**



AUG 24 2009  
RAYMOND W. KELLY  
POLICE COMMISSIONER